

REFERENCE TITLE: **human rights committees**

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

HB 2748

Introduced by
Representatives Kirkpatrick: Bradley, Campbell CH, Saradnik, Schapira,
Ulmer

AN ACT

AMENDING SECTIONS 41-3803 AND 41-3804, ARIZONA REVISED STATUTES; RELATING TO HUMAN RIGHTS COMMITTEES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 41-3803, Arizona Revised Statutes, is amended to

3 read:

4 41-3803. Human rights committee on people with mental illness

5 A. The human rights committee on ~~the mentally ill~~ PEOPLE WITH MENTAL

6 ILLNESS is established in the department of health services to PROTECT AND

7 promote the rights of persons WHO ARE ENROLLED IN THIS STATE'S BEHAVIORAL

8 HEALTH CARE SYSTEM AND who receive behavioral health services pursuant to

9 title 36, chapters 5 and 34.

10 B. Each region of the state covered by a regional behavioral health

11 authority shall have at least one human rights committee with the authority

12 and responsibilities as prescribed by the department of health services

13 pursuant to rules adopted by the department relating to behavioral health

14 services.

15 C. The director of the department of health services may establish

16 additional committees to serve persons who receive behavioral health services

17 or to oversee the activities of any service provider.

18 D. Each committee established pursuant to this section shall consist

19 of at least seven and not more than fifteen members appointed by the director

20 of the department of health services with expertise in at least one of the

21 following areas:

22 1. Psychology.

23 2. Law.

24 3. Medicine.

25 4. Education.

26 5. Special education.

27 6. Social work.

28 E. Each human rights committee shall include at least two parents of

29 children who receive behavioral health services pursuant to title 36, chapter

30 34.

31 F. Each human rights committee shall include at least two members who

32 are current or former clients of the behavioral health system.

33 G. Each committee shall be organized pursuant to this section and the

34 requirements of section 41-3804.

35 Sec. 2. Section 41-3804, Arizona Revised Statutes, is amended to read:

36 41-3804. Human rights committees; membership; duties; client

37 information; violation; classification

38 A. Subject to the approval of the appropriate department director,

39 each committee established pursuant to this article shall adopt guidelines

40 that govern its operation, including terms of members, quorum and attendance

41 requirements and removal of a committee member if necessary. Each committee

42 shall adopt these guidelines by majority vote within the first three months

43 of its formation. These guidelines shall not conflict with this article.

44 The director of the appropriate department shall approve the guidelines

45 unless they are inconsistent with the department's statutes, policies,

1 procedures or rules, or if the ~~guideline~~ does GUIDELINES DO not promote
2 participation by all interested members of the community that the committee
3 serves. In addition to the procedures in the guidelines, each human rights
4 committee must approve the removal of any committee member on majority vote
5 of the committee.

6 B. Employees of the department of economic security and the department
7 of health services may serve on a committee only as nonvoting members whose
8 presence is not counted for the purpose of determining a quorum.

9 C. Advocacy groups, local advisory councils, committee members and the
10 director of the appropriate department may submit names of candidates to fill
11 committee vacancies. The appropriate director shall appoint a person to fill
12 a vacancy subject to the approval of the committee.

13 D. Each committee shall meet at least quarterly each calendar year.

14 E. Each committee shall provide independent oversight to:

15 1. Ensure that the rights of clients are protected.

16 2. IF APPROPRIATE, AND ON APPROVAL BY THE COMMITTEE, provide research
17 in that committee's field.

18 3. Review incidents of possible abuse, neglect or denial of a client's
19 rights.

20 F. Each committee shall submit written objections to specific problems
21 or violations of client rights by department employees or service providers
22 to the director of the appropriate department for review. EACH COMMITTEE
23 SHALL INCLUDE RECOMMENDATIONS FOR IMPROVEMENT WITH THE WRITTEN OBJECTIONS.

24 G. Each committee shall issue an annual report of its activities and
25 recommendations for changes to the director of the appropriate department.

26 H. A committee may request from the appropriate department the
27 services of a consultant or department employee to advise it on specific
28 issues. The consultant may be a member of another human rights committee, a
29 department employee or a service provider. Subject to the availability of
30 monies, the appropriate department shall assume the cost of the consultant. A
31 consultant shall not participate in committee votes.

32 I. Subject to federal law, committee members and consultants have
33 access to client information and records maintained by the appropriate
34 department, AGENCY OR provider, ~~or~~ INCLUDING regional behavioral health
35 authorities, to the extent necessary to conduct committee duties. Each
36 person who receives information or records pursuant to this subsection shall
37 maintain the information or records as confidential and sign an agreement to
38 comply with all confidentiality requirements. Any client information or
39 records shall be released to the committee without the designation of
40 personally identifiable information unless the personally identifiable
41 information is required for the official purposes of the committee. FOR THE
42 PURPOSES OF THIS SUBSECTION, "personally identifiable information" includes
43 name, address, date of birth, social security number, tribal enrollment
44 number, telephone or telefacsimile number, driver license number, places of
45 employment, ~~or~~ school identification or military identification number or any

1 other distinguishing characteristic that tends to identify a particular
2 person. A violation of this subsection is a class 2 misdemeanor.

3 J. If a committee's request for information or records from a
4 department, AGENCY OR PROVIDER is denied, the committee may request in
5 writing that the director of the appropriate department, AGENCY OR PROVIDER
6 review this decision. The DEPARTMENT, agency OR PROVIDER director or
7 designee shall conduct the review within five business days after receiving
8 the request for review. The DEPARTMENT, agency OR PROVIDER shall bear the
9 costs of conducting the review. A final agency decision made pursuant to
10 this subsection is subject to judicial review pursuant to title 12, chapter
11 7, article 6. The DEPARTMENT, agency OR PROVIDER shall not release any
12 information or records during the period an appeal may be filed or is
13 pending.

14 K. Confidential records and information received by the committee or
15 its consultant are subject to the same provisions concerning subpoenas,
16 discovery and use in legal actions as are the original records and
17 information.

18 L. Any person who, in good faith and without malice and in connection
19 with duties or functions of a committee established pursuant to this article,
20 takes an action or makes a decision or recommendation as a member or agent of
21 a committee or who furnishes records, information or assistance that is
22 related to the duties of a committee is not subject to liability for civil
23 damages in consequence of that action. The court shall determine the
24 presence of malice by clear and convincing evidence.